

EXHIBIT 21 (Corrected)

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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CHASOM BROWN; MARIA NGUYEN;
WILLIAM BYATT; JEREMY DAVIS;
and CHRISTOPHER CASTILLO,
individually and on behalf
of all other similarly
situated,

Plaintiffs,
vs. No. 5:20-cv-03664-LHK
GOOGLE LLC,
Defendant.

_____ /

CONFIDENTIAL

REMOTE VIDEOTAPED DEPOSITION OF BRIAN RAKOWSKI
THURSDAY, AUGUST 19, 2021

Stenographically Reported by:
ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR
California CSR No. 9830
Job No. 741808

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WILLIAM BYATT; JEREMY DAVIS;
6 and CHRISTOPHER CASTILLO,
individually and on behalf
7 of all other similarly
situated.

8

Plaintiffs.

9 vs.

No. 5:20-cv-03664-LHK

10 GOOGLE LLC

Defendant.

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14 REMOTE VIDEOTAPED DEPOSITION OF BRIAN RAKOWSKI,
15 taken on behalf of the Plaintiffs, on Thursday,
16 August 19, 2021, beginning at 9:00 a.m., and ending
17 at 6:02 p.m., Pursuant to Notice, and remotely
18 before me, ANDREA M. IGNACIO, CSR, RPR, CRR, CLR ~
19 License No. 9830.

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1 R E M O T E A P P E A R A N C E S:

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3

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1 R O M O T E A P P E A R A N C E S: (Cont.)

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4 COUNSEL FOR THE DEFENDANT:

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6 By: VIOLA TREBICKA, ESQ.

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12 ALSO PRESENT: Matthew Gubiotti, Google

13 Evan Tsilimidos, Videographer

14 Vanessa Wheeler, Exhibit Technician

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1 my answers were a little bit relying on cookies that 17:20
2 we talked about so much. Some of them, I -- I don't 17:20
3 know how we would practically do or Google would 17:20
4 practically do or even impractically. 17:20

5 But, you know, it would probably -- it would 17:20
6 take me -- I would have to sit with some experts to 17:20
7 really understand each type of data type -- each data 17:20
8 type and understand what the implications of that 17:20
9 would be. 17:20

10 MR. RICHARDSON: Q. Going back to your prior 17:21
11 answer, I think you stated that telling a website that 17:21
12 the person is incogni- -- is in Incognito Mode would 17:21
13 be a privacy violation. 17:21

14 Do you recall that? 17:21

15 A Yeah, I did say that. 17:21

16 Q Why do you believe that would be a privacy 17:21
17 violation? 17:21

18 A Well, I should amend it. There may be a 17:21
19 clever way to do it. There are so many clever 17:21
20 privacy-preserving techniques these days, so I don't 17:21
21 want to presume that there's not a smart way to do it. 17:21

22 But when we designed the feature, our view 17:21
23 was that disclosing that a user was in a private -- 17:21
24 was in an Incognito session would be in a -- would be 17:21
25 to a website, as part of the header or something like 17:21

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1 that, would be information that the user might not 17:21

2 wish to disclose. It would be additional information 17:21

3 that we would send to a site about the user's context. 17:21

4 So we decided that that probably wasn't in the best 17:22

5 interests of a user. 17:22

Now, if there's some cryptographically fancy 17:22

7 way of doing it now, that may be. It may be. But, 17:22

8 you know, that's beyond my expertise. 17:22

9 Q Is that something you have investigated for 17:22

10 purposes of the deposition here today? 17:22

11 A No. no. 17:22

12 MR. RICHARDSON: Let's look at one last 17:22

13 exhibit here, what's been previously marked as Adkins 17:22

14 Exhibit 7 which may have been marked again 17:22

15 Exhibit 36 here It's Tab 36 in my set 17:22

16 (Document remotely marked Exhibit 36 17:33

for identification.)

12 MS. TIB. B.2.1 v. 36 folio 2 17:32

16 MR. RICHARDSON: 36 which is meant to be 17-32

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1 normal browsing session. 17:37

2 Q And so whether -- 17:38

3 A So there's no specific -- there's no separate 17:38

4 controls. 17:38

5 Q And so whether it's a normal browsing session 17:38

6 or an Incognito browsing session, are there any 17:38

7 controls that allow someone to prevent Google from 17:38

8 collecting and using any information from that 17:38

9 browsing session in Chrome? 17:38

10 A In Chrome? 17:38

11 Outside of Chrome, I think this document 17:38

12 enumerates a whole bunch of controls. 17:38

13 Inside of Chrome, the settings are about what 17:38

14 is stored locally on your computer and not about what 17:38

15 is stored on the server. And there, there are, you 17:38

16 know, myriad controls for deleting things or removing 17:38

17 piecemeal or -- or, you know, the whole thing, whole 17:38

18 cloth. 17:38

19 So I think those are two different domains. 17:38

20 In Chrome, there are -- there are lots of controls for 17:39

21 deleting the data that's stored locally, which is what 17:39

22 is relevant to Chrome. 17:39

23 Q And are you aware of any controls that allows 17:39

24 a user to prevent all server logging by Google while 17:39

25 they're browsing in Incognito Mode? 17:39

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1 A No. 17:39

2 MR. RICHARDSON: I'm at my time. 17:39

3 So at this point, I will just note for the 17:39

4 record that, you know, we have requested certain 17:39

5 documents in connection with this deposition that I 17:39

6 don't think have been provided. We received a 17:39

7 production just last night. So, you know, we've 17:39

8 repeatedly followed up. 17:39

9 I appreciate your time here today, 17:39

10 Mr. Rakowski. 17:39

11 I'm not closing the deposition, but that's a 17:39

12 discussion I'll have with counsel. That's not an 17:39

13 issue for you. 17:39

14 THE WITNESS: Okay. Thank you. 17:39

15 MS. TREBICKA: We may have a few questions on 17:39

16 redirect. So why don't we break for a few minutes, 17:39

17 and when we come back, I'll let you know if we do or 17:39

18 not. 17:40

19 THE VIDEOGRAPHER: The time is 5:40. We are 17:40

20 going off the record. 17:40

21 (Recess taken.) 17:40

22 THE VIDEOGRAPHER: The time is 5:57. We are 17:57

23 back on the record. 17:57

24 /// 17:57

25 /// 17:57

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1 DECLARATION UNDER PENALTY OF PERJURY

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3 I, BRIAN RAKOWSKI, do hereby certify under
4 penalty of perjury that I have read the foregoing
5 transcript of my remote deposition, taken on
6 August 19, 2021, that I have made such corrections
7 as appear noted herein in ink; initialed by me;
8 that my testimony contained herein, as corrected,
9 is true and correct.

10

11 DATED this 22 day of october, 2021, at
12 9:55am
13 _____.

14

DocuSigned by:

Brian Rakowski

67BD5C6843B14B2...

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SIGNATURE OF WITNESS

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